



**Montgomery County, Maryland**

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**Office of Procurement**

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**Douglas M. Duncan, County Executive**

# **Office of Procurement Procurement Guide**

**July 2003**

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## Our Vision

We, the employees of Montgomery County Office of Procurement, pledge to assist and support all County agencies and the public in the procurement of goods and services in a proficient, effective, and timely manner according to the Montgomery County Code and Procurement Regulations.

## Our Mission

The mission of the Office of Procurement is to provide direct assistance and customer-oriented services that address department needs while maintaining adequate oversight to deliver quality goods and services.



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# Introduction

This procurement guide was designed to assist procurement specialists, contract administrators, and other procurement professionals who purchase goods, services, and construction for Montgomery County. Familiarity with the purchasing procedures will aid all groups to work cooperatively within the County's procurement regulations to enable the Office of Procurement to achieve its objectives:

- To conduct all County purchasing in accordance with the County's Procurement Regulations, the County Code, and the Uniform Commercial Code adopted by the State of Maryland.
- To obtain the quantity and quality of materials, services or construction at the best price in the most timely way and with the most appropriate source.
- To increase competitive bidding in order to obtain materials, services or construction at the lowest possible cost and to provide all interested vendors the opportunity to offer their services and products to the County.
- To treat all vendors fairly by removing all artificial barriers from solicitations that would prevent a vendor from responding to a solicitation.

This guide will also promote pleasant and businesslike relationships between the County's Office of Procurement and its using departments. This document is intended as a general guide and as such may not answer all questions you may have. Therefore, if you have questions not answered in this guide, telephone or visit in person the Office of Procurement at:

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Rockville, Maryland 20850  
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As procurement regulations are added, modified or eliminated, each user of the guide will be forwarded that information with appropriate directions on where to insert or delete the information. It is the intent of the Office of Procurement to update this guide as regulations are promulgated.



# Foreword

Procurement is an essential County function in which the integrity of the County is an important component of its credibility. The County's Procurement laws and regulations typically focus on how those activities are conducted. However, with the current age of technology, reinventing, and reengineering, the focus of procurement is shifting to what the objectives of procurement are: integrity, efficiency, cost, and best value.

Procurement is the County's avenue to the business community wherein it buys from the private sector those goods and services it elects not to provide through the efforts of its employees. Therefore, it is necessary for its employees to know the way in which the County performs its procurement functions

Consequently, this guide is designed to provide clear, practical explanations of the Montgomery County procurement procedures in a manner that should be readily understood by the lay person.

# Purpose

This guide provides methods, purchasing policies, and practices used by Montgomery County to procure goods, services or construction. This guide should be used in conjunction with the County Code, Chapter 11B and Procurement Regulations 15-94AM that pertain specifically to individual purchasing methods.

It is essential that all activities in the procurement process be conducted in an open, fair, and consistent manner. This guide has been prepared to:

- Provide officials and managers with an overview of purchasing policies and procedures.
- Assist contract administrators to develop effective procurements.
- Supply vendors with the purchasing procedures for the County.

## Authority

The Director, Office of Procurement, under the supervision of the Chief Administrative Officer, is the central procurement officer for the County. The Director has overall responsibility for procuring goods, services and construction while establishing internal procurement policies and procedures.

The Director, Office of Procurement, has authority to:

- Approve and execute all contracts for goods, services or construction that costs \$5,000 or more.
- Delegate the authority to execute contracts to Procurement Specialists.
- Approve the sale, trade, and disposal of surplus goods.

No contract may be entered into unless the Director, Office of Procurement or designee, ensures that all requirements of Executive Orders, Procurement Regulations, and all other applicable procedures have been met.

# Office of Procurement

The Office of Procurement is responsible for administering a centralized procurement system. Procurement is organized into four sections: Administration; Operations; Automation and Records Management; and the Minority, Female, and Disabled Persons (MFD) Program. Functions of the procurement office include assisting departments/agencies in obtaining goods, services or construction, selecting supply sources, reviewing requirements, soliciting requirements, evaluating bids/offers, preparing and awarding contracts, resolving disputes, and claims and assisting in contract administration.

The administration section initiates procurement policies and practices, terminates contracts, and responds to public information requests. The administration section reports directly to the Director, Office of Procurement.

The operations section includes Procurement Specialists who review requirements, select sources of supply, solicit bids and proposals, and execute contracts for their assigned areas of responsibility.

The MFD program is responsible for ensuring that minority-owned businesses receive a fair share of County contracting opportunities. The goals of the program are to:

- Encourage economic development for minority persons.
- Increase business opportunities for minority persons.
- Notify minority-owned businesses of procurement opportunities.
- Provide information to minority business owners about the procurement system.
- Provide referrals for technical assistance, sureties, and financing information.
- Review procurement procedures to remove artificial barriers to competition.

## Conflict of Interest

Elected officials, appointed officials, and other employees must avoid activities and relationships which cause or may give the appearance of being at variance with the best interests of the County. Officials and employees responsible for the purchase of goods and services or for administering contracts may not:

- Acquire a personal interest in any private commercial enterprise contracting with the County.
- Use their official position to influence the County for personal gain.
- Maintain a financial or stock ownership of an amount, directly or indirectly, through relatives.
- Accept any entertainment fee or gratuity from any contractor, supplier, or vendor actively engaged in or seeking to do business with the County.

## Contract Review Committee\*

The Contract Review Committee (CRC) is responsible for administrative review and approval of procurement actions which include:

- Approval of sole source procurements greater than \$25,000.
- Approval of an Open Solicitation Plan.
- Approval of most change orders or amendments to a contract greater than \$25,000.
- Approval of renewals of contracts beyond the term of the original contract.
- Consideration of procurement matters referred to the CRC by the Chief Administrative Officer (CAO), the County Attorney or a Department Head.
- Consideration of other procurement matters contained in the Procurement Regulations, including hearing and deciding solicitation appeals.

\*CRC General Guidelines (pg. 45)

# Advanced Purchasing and Inventory Control System

The Advanced Purchasing and Inventory Control System (ADPICS) is a purchasing and accounts payable system used to create requisitions, purchase orders, and issue vouchers for payment. The Financial Administration and Management Information System (FAMIS) is responsible for maintaining accounting information. FAMIS contains all accounting information including department budgets, fund balances, and department expenditures.

## Procurement Process

Acquisition planning involves developing written specifications for the goods or services required. Advanced planning is essential when anticipating purchasing needs. The planning process includes written specifications, costs, standardization factors, and timelines.

### Acquisition Planning

Through effective planning the department can:

- Avoid lost work-hours caused by material stock-outs or shortages.
- Reduce the number of “rush” purchases.
- Increase the overall efficiency of the County through reduced costs.
- Identify goods that should be standardized throughout the department.
- Reduce the cost of goods or services through the continuous evaluation and modification of specifications.

The aim of any good procurement function is to obtain goods and services of the proper quality at the best possible prices. Soliciting quotes from qualified vendors encourages competition and lowers prices. In certain cases, however, it may be impractical to secure bids for specific types of goods or services.

### Competitive Procurements

The scope of the purchasing activity may be defined as providing all the materials support efforts that are required by the County. The effort begins with the solicitation and ends with the disposition of surplus, salvage, or scrap.

# Source Selection Methods

## Competitive Sealed Bids

A competitive sealed bid is a formal solicitation (Invitation for Bid (IFB)) requesting prices for goods, services, or construction through public notice.

Use:

- When cost is the determining award factor.
- When a purchase of goods, services or construction **will exceed \$25,000.**

## Solicitation Process

Department:

- Identifies goods, services, or construction.
- Prepares the specifications, statement of work, and quotation sheet.
- Prepares an ADPICS requisition.
- Develops a supplemental list of vendors.
- Special terms and conditions.
- Obtains insurance requirements from Risk Management

Procurement:

- Reviews specifications for MFD barriers.
- Coordinates advertisement and issuance of the solicitation.
- Opens and orally reads bids at the date and time specified on the bid.
- Tabulates bids.
- Determines low bidder.
- Forwards copies of the apparent three low bidders' bids to the department.

## Award Process

Department:

- Evaluates the bids for responsiveness and responsibility.
- Prepares recommendation for award.

Procurement:

- Reviews recommendation and posts awards.
- Requests MFD compliance.
- Obtains Risk Management approval of insurance.
- Obtains bonding, if applicable.
- Executes ADPICS purchase order.
- Executes the contract.



A competitive sealed proposal is a formal procedure to solicit proposals from vendors when competitive sealed bidding may not be practical or in the best interest of the County. The competitive sealed proposal is initiated through the Request for Proposal (RFP) process.

## Competitive Sealed Proposals

Use:

- When the purchase of professional services **will exceed \$25,000**. (other items, if approved by Director, Office of Procurement).
- When award is based on quality and cost.

## Solicitation Process

Department:

- Prepares the draft solicitation. The draft includes: statement of work, compensation clause, performance period schedule (contract term), method of award, evaluation criteria, proposal submissions and administrative requirements.
- Prepares ADPICS requisition.
- Coordinates insurance requirements with Risk Management.
- Determines bonding requirements if applicable.

Procurement:

- Reviews and approves draft solicitation.
- Prepares bidders list.
- Reviews solicitation for MFD artificial barriers.
- Coordinates advertisement and issuance of solicitation.

## Award Process

Department:

- Evaluates proposals as determined by the award method.
- Evaluates responsibility of proposers.
- Recommends award to Director, Office of Procurement.
- Negotiates contract with recommended awardee after public posting.
- Prepares contract document.
- Requests all signatures on contract document (county attorney, contractor, and department head).
- Requests approval of insurance from Risk Management.
- Requests bonds if required.

## Competitive Sealed Proposals

(continued)

### Procurement:

- Receives proposals at the specified time and date.
- Reviews opened proposals.
- Posts awards after approval of the award recommendation.
- Coordinates MFD compliance.
- Coordinates Cost/Price Analysis.
- Encumbers required funds on ADPICS purchase order.
- Reviews contracts.
- Executes the contract.

## Non-Competitive Purchases

A non-competitive procurement is the acquisition of goods, services or construction without prior public notice or competition. Non-competitive procurements, sometimes referred to as sole source, require department head recommendation with justification in writing. A sole source procurement is made when there is only one source of supply known. However, a non-competitive procurement means the procurement was not or is not to be competed.

### Use:

- When a public purpose will be served and **only one** source of supply is known.
- When the goods, services, or construction to be acquired are for potential or pending litigation, condemnation, or collective bargaining.
- When a grant (County, State or Federal) specifically identifies a vendor.

## Procedure

### Department:

- Prepares memorandum to the Director, Office of Procurement, including justification, requesting approval of a non-competitive Procurement.
- Prepares contract document.
- Obtains signatures of the county attorney, contractor, and the department head.
- Prepares ADPICS requisition.
- Obtains bonds if required.
- Obtains approval of insurance from Risk Management.

**Procurement:**

- Reviews the cost and pricing data if the non-competitive award exceeds \$50,000.
- Obtains MFD compliance for non-competitive award if the contract value is greater than \$65,000.
- Obtains approval from CRC if the non-competitive award is **greater than \$25,000**.
- Encumbers funds as required on an ADPICS purchase order.
- Executes the contract.

**Non-Competitive Purchases**

(continued)

A direct purchase is an informal procurement of goods, services or construction by a department, for up to \$5,000. Competition should be preserved with this method to the extent practicable. Procurements with MFD firms are encouraged. When the need for a particular product or service occurs within a reasonable time frame, and can be consolidated, the purchase must be consolidated, and not subdivided.

**Direct Purchases****Use:**

- When the goods, services or construction to be purchased will **not exceed \$5,000**.
- When the goods, services or construction are **not** provided for in a current County contract.

**Procedure****Department:**

- Receives competitive quotes when practical.
- Creates an ADPICS direct voucher or direct purchase order.
- Receives delivery of the goods, services or construction.
- Receives and approves vendor invoice.
- Posts an ADPICS DV or DPO.

## Emergency Purchases

An emergency procurement is an informal procurement of goods, services or construction required as a result of an emergency. An emergency procurement may be authorized by the Director, Office of Procurement or by the Department Head, if the Director, Office of Procurement is unavailable.

### Use:

- When facts exist which constitute an emergency.
- When a procurement of goods, services or construction is necessitated by any threatening dangerous or imminent condition, or unforeseen curtailment of an essential service or supply which, if not remedied, will endanger or cause damage to health, life or property and which cannot be accomplished through a timely procurement using normal procedures.

### Procedure

#### Department:

- Requests approval to procure goods, services or construction from the Director, Office of Procurement.
- Prepares Direct Purchase for payment.
- Forwards a memorandum signed by the department head with a copy to the CAO to Procurement within five days of the approval outlining the facts and circumstances involved in the procurement.

#### Procurement:

- Approves emergency procurement request.
- Posts Direct Purchase Order.

A bridge contract is an award made to a contractor using the competitive bid prices and specifications from another public entity contract.

### **Bridge Contracting (piggybacking)**

Use:

- When award by another public entity was made competitively.
- When the goods, services, construction and price are materially the same.
- When in the best interest of the County.

### **Procedure**

Department:

- Prepares memorandum signed by the department head which supports the requirement to “bridge.”
- Prepares ADPICS requisition.
- Provides a copy of the vendor’s contract including all amendments with the public entity.
- Prepares contract
- Obtains appropriate signatures on contract (department head, County Attorney, vendor).
- Obtains bonds if required.
- Obtains Risk Management approval of insurance certificate.

Procurement:

- Requests and obtains MFD compliance if purchase is greater than \$65,000.
- Encumbers required term funds on ADPICS purchase order.
- Executes the contract.

A petty cash purchase is an informal purchase of goods, services or construction which is authorized by the department head.

### **Petty Cash Purchases**

Use:

- When an employee is reimbursed for purchases.
- When the goods and services are valued at \$100 or less.
- When there is department authorization for the expenditure and reimbursement.

### **Procedure**

Department:

- Approves purchase request made by employee.
- Approves invoice.
- Prepares and posts ADPICS direct voucher for payment.

### **Informal Solicitation (Small Purchase)**

A small purchase is an informal solicitation for goods, services or construction. The small purchase requires coordination between the Procurement Specialist and the using department. The award **must** be based on price, responsiveness, and responsibility. A minimum of five offerors, randomly selected by the Office of Procurement, must be contacted. At least one of the potential offerors solicited should be a minority owned business.

Use:

- When a purchase of goods, services or construction will be valued **above \$5,000 but less than \$25,000.**

### **Procedure**

Department:

- Prepares specifications and quote sheet.
- Prepares ADPICS requisition.

Procurement:

- Prepares bid document.
- Develops bidders list of at least five vendors.
- Issues bids and receives quotes.
- Tabulates and evaluates quotes.
- Determines the lowest bidder.
- Executes ADPICS purchase order, and contract if applicable.

A Mini-Contract is an informal solicitation for professional services. The award is based on price and other pertinent factors. The using department must document the basis of the selection. A minimum of five offerors, randomly selected by the Office of Procurement, must be contacted. At least one of the potential offerors solicited should be a minority owned business.

### **Informal Solicitation (Mini-Contract)**

Use:

- When a purchase of professional services will be valued above **\$5,000 but less than \$25,000.**

### **Procedure**

Department:

- Specifications prepared by Department and issued to at least five vendors (see above).
- Determines awardee (Evaluation criteria and/or cost).
- Prepares contract and receives Risk Management approval of insurance.
- Posts a Public Notice On Line and on the Office of Procurement bulletin board.

Procurement:

- Executes ADPICS purchase order and contract if applicable.

## **Public Entity Contracting**

A public entity procurement is an agreement to acquire or use any goods, services, or construction with a public entity. A public entity procurement does not require public notice or non-competitive justification.

Use:

- When another public entity will provide goods, services or construction for the County.
- When entering into agreement with another public entity will serve in the best interest of the County.

### **Procedure**

Department:

- Prepares contract to obtain goods, services or construction.
- Obtains all signatures on contract including: public entity department head, and county attorney.
- Prepares ADPICS requisition.
- Obtains Risk Management approval of insurance.
- Obtains bonds, if applicable.

Procurement:

- Reviews contract document.
- Encumbers required funds on ADPICS purchase order.
- Executes the contract.



An open solicitation is a process in which the County executes multiple contracts with multiple contractors on a continuing basis. Each contractor must meet or exceed pre-established minimum qualifications. Examples of current open solicitation contracts include instructors, mammography services, and medicaid taxi services.

## Open Solicitation

Use:

- When the County desires to award a contract to all persons who meet certain minimum pre-established qualifications.

## Procedure

Department:

- Each solicitation plan must include:
  1. Periodic public notices inviting potential contractors.
  2. An application process for a potential contractor to follow in order to obtain a contract under the open solicitation.
  3. Criteria under which an application for a contract will be accepted or rejected.
  4. A pre-approved contract form that each successful contractor will be required to execute.
  5. The cost of all contracts entered into will not exceed available appropriated funds.
- Obtains county attorney approval for the pre-approved contract form.
- Issues pre-approved solicitation and contract form to vendors/bidders.
- Evaluates solicitation/applications.
- Determines awardee(s).
- Obtains Risk Management approval of insurance certificates.
- Prepares ADPICS requisition when required.

Procurement:

- Advertises open solicitation.
- Requests and approves MFD compliance if contract value exceeds \$65,000.
- Encumbers required funds on ADPICS purchase order.
- Executes the contract.

## Contract Types

When administering contracts both procurement professionals and contract administrators must understand the type of contract that will best serve the interest of the County and contractor. The type of contract used determines how to monitor the delivery of goods, services or construction being provided. There are four distinct contract types. A combination of contract types may be used in one contract.

**Fixed Price** - Fixed price contracting is the preferred contract method in the County. A fixed price contract is a contract which defines the goods, services or construction to be delivered in exchange for a fixed and defined price. Construction contracts, custodial, and hardware and software maintenance are generally fixed price contracts.

**Cost Reimbursement** - Cost reimbursement contracts provide reimbursement of a contractor's costs associated with performance of specified contract requirements. These costs may include hourly rates associated with personnel, overhead, out-of-pocket costs, and other costs specified in the contract.

**Requirements** - A requirements contract is an indefinite quantity contract for goods, services or construction to be furnished at specific times, or as needed using fixed unit prices. The contractor agrees to provide goods, services or construction at a pre-established price as the County's need arises. The contractor is not guaranteed any requests under this type of agreement.

**Definite Quantity** - A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of goods, services or construction either at specific times or when ordered. Quantities ordered under a definite quantity contract are limited to the quantity stated in the contract, unless the contract contains an increased quantity option.

### Prohibited Contracts

A contract providing for reimbursement of **costs plus percentage of costs** is prohibited. Contracts providing for reimbursement of costs plus a fixed fee or incentive fee may be used.

# Contract Administration

Contract administration is directed by an authorized government official charged with the responsibility of administering a contract with authority provided in the contract document. The contract administrator ensures that the goods, services or construction are delivered and that the contractor adheres to the specifications, terms, conditions and price written in the contract.

## Procedure

### Department:

- Prepares specifications and defines technical requirements for solicitations.
- Attends pre-bid conferences if applicable.
- Reviews and evaluates offers and proposals of bidders.
- Prepares contract documents.
- Receives goods, services or construction, as written in delivery requirements.
- Monitors the performance of the contractor.
- Coordinates non-performance contractor issues with Procurement.
- Prepares periodic reports on contractor performance.
- Reviews and approves vendor invoices for payment.

### Procurement:

- Assists with resolution of non-performance issues.
- Prepares notice to cure of deficient issues.
- Issues terminations.\*
- Debars vendors.

The Director, Office of Procurement, is required to conduct cost and price analysis to determine fair and reasonable prices. Cost and price analysis assists in certifying contractor costs such as overhead and travel fees, and prevents the contractor from submitting nonallocatable costs to the County.

## Cost and Price Analysis

\* See: Terminations (pgs. 22-24)

## Cost and Price Analysis

(continued)

Use:

- When a competitively negotiated contract is valued at more than \$100,000.
- When a non-competitively negotiated contract is valued at more than \$50,000.
- When a contract modification exceeds \$50,000.
- When the CAO or Director, Office of Procurement determines the need for cost and price analysis.

### Procedure

Department:

- Evaluates the offeror/contractor cost proposals.
- Recommends award to the Director, Office of Procurement.
- Coordinates cost negotiations with Procurement.
- Prepares ADPICS requisition for payment of cost/price analysis contractor if required.

Procurement:

- Evaluates cost proposals.
- Determines whether a cost/price contractor is required.
- Requests cost and pricing data from awardee.
- Prepares findings of cost and pricing data.
- Reviews cost and pricing data with department negotiation team.
- Recommends points of negotiation to the department negotiation team.

## Payment Procedures

All payments for goods, services or construction should be made through the ADPICS system unless exempted as outlined in Core Business System (CBS) Newsletters that are available on the County bulletin board.

Use:

- When purchasing goods, services or construction.
- When reimbursing employees for purchases
- When the goods, services or construction are under a current County contract.

## Pre-Purchase Order

### Department:

- Determines index codes, subobject codes, and available funding in FAMIS.
- Prepares and posts ADPICS requisition.
- Forwards (IFB, RFP) specifications, quotation sheets, contracts/proposals, if applicable, to Procurement.

## Post-Purchase Order

### Department:

- Receives goods, services or construction.
- Receives and approves vendor invoice.
- Prepares ADPICS invoice.
- Approves and posts voucher.
- Issues check(s) to vendor in FAMIS.

### Procurement:

- Receives ADPICS requisition.
- Determines method of procurement.
- Issues solicitation.
- Records bid quotes.
- Approves recommended awardee.
- Prepares and posts ADPICS purchase order.

### Department:

- Creates direct purchase order (optional).
- Receives goods, services or construction.
- Receives and approves vendor invoice.
- Posts payments via ADPICS direct voucher or direct purchase order.

## Payment Procedures

(continued)

### Procedure – Purchases Greater Than \$5,000

### Procedure – Purchases Less Than \$5,000

## Claims

A claim is considered a purchasing violation which obligates the County to pay for services rendered where there exists no binding and legal agreement between the County and contractor. Procurement prepares and reviews purchasing violation reports.

Occurrence:

- When, at the direction of the County, a contractor performs services or delivers goods without a contract or purchase order.

## Procedure

Department:

- Prior to paying the contractor, the department must submit the following documentation to the Office of the County Attorney:
  1. A statement of facts concerning the claim.
  2. A statement of facts demonstrating that the contractor would have been entitled to a contract for the services rendered or the goods delivered under the County's Procurement Regulations.
  3. A statement of all facts which demonstrate that the claimant proceeded in good faith upon the direction of the County.
  4. A certification that the claim submitted represents a fair and reasonable price for services rendered or goods delivered, including all facts which support the certification.
  5. An explanation from the department stating the reason the contract did not cover this claim, if applicable, and a plan or statement of actions taken to assure that this type of claim does not occur in the future.
  6. A statement of any additional facts which indicate that the claimant is entitled to payment of the claim as submitted.
  7. A written invoice from the department must be attached to the written submission.
  8. A proposed contract or contract modification which makes the performance rendered by the claimant subject to all applicable mandatory clauses and releases the County from any further claims for the goods, services or construction accepted by the County.

- Submits the original documentation with attachments to the County Attorney.
- Prepares ADPICS direct purchase order if claim is approved.

**Procedure**  
(continued)

County Attorney:

- Approves or denies claims under \$5,000.
- Recommends approval of claims over \$5,000 to the CAO.

Procurement:

- Approves and executes the claim contract modification or contract.
- Approves ADPICS direct purchase order for claim.

## Terminations

The Director, Office of Procurement, is the only person authorized to terminate a contract. In certain instances, the County may terminate a contract due to breach of contract. There are three types of terminations: termination for convenience, default, and mutual consent.

### Termination for Convenience

Use:

- When the County determines that the contract for goods, services or construction, in whole or in part, are no longer required.

### Procedure

Department:

- Reviews the contract for goods, services or construction.
- Determines that the contract for goods, services or construction is no longer required.
- Prepares memorandum signed by the department head, to the Director, Office of Procurement with justification for termination.
- Issues payment for outstanding invoices prior to termination.

Procurement:

- Forwards written termination letter to contractor, prior to final payment.
- Negotiates settlement of outstanding issues of goods, services or construction.
- Arranges for transfer of titles or materials which belong to the County.
- Executes termination of contract.



## Termination for Default

### Use:

- When a contractor has failed to perform/deliver the required goods, services or construction in the specified time.
- When a contractor has failed to comply with the terms and conditions of the contract.
- When a contractor has failed to make timely progress in the completion of the required goods, services or construction.

### Procedure

#### Department:

- Monitors contractor's performance.
- Prepares monitoring report of the contractor's deficiencies.
- Notifies the Director, Office of Procurement of the contractor's failure to perform/deliver.
- Requests assistance from Procurement in curing deficiencies.
- Requests termination of contract from the Director, Office of Procurement.

#### Procurement:

- Notifies contractor of deficiencies and requests completion of required work within a specified time frame (Notice to Cure Letter).
- Negotiates with the County Attorney, any liquidated damages if contractor is unable to complete required work in the "Notice to Cure" letter.
- Determines with the County Attorney, if the County should continue with the deficient contractor.
- Executes termination of contract for default if the deficiencies cannot be resolved.

## **Termination by Mutual Consent**

### **Use:**

- When under special circumstances both parties agree to contract termination without fault or further costs to any party.

### **Procedure**

#### **Department:**

- Receives approval from the Office of Procurement for termination.
- Prepares memorandum signed by the department head and forwards to the Director, Office of Procurement with justification and recommendation for termination for convenience.
- Issues payment for outstanding invoices prior to termination.

#### **Procurement:**

- Arranges for transfer of titles or materials which belong to the County.
- Forwards written termination letter to contractor.

# Procurement Activities (Formal Solicitations)

## Advertising

Public notice is provided normally (30) days prior to the opening date of the solicitation to vendors/contractors/bidders through electronic and print media. The County provides public notice to vendors/contractors/bidders seeking to obtain information about Invitation for Bids, Request for Proposals and Notice of Award. The County on a weekly basis, advertises in the Maryland Contract Weekly, a State of Maryland publication. Minority and local newspapers are used for advertisement on a rotational basis along with the following:

- Public Bulletin Board, Office of Procurement
- *RAPID*

Construction solicitation notices and specifications may be available for review from:

- Blue Reports
- McGraw-Hill Construction Dodge (formerly Dodge Reports)
- Reed Construction Data (formerly Construction Market Data-CMD)

The public posting of a proposed awardee may be obtained by calling 240-777-9907. This is a recorded message which is updated daily. Vendors, contractors and bidders seeking information on bid tabulation of Invitation for Bids opened may obtain information by calling 240-777-9906. This is a recorded message updated daily and contains the apparent low bidder name and price.

To receive up-to-date information, please subscribe to *RAPID* (see page 26) or visit our website at [www.montgomerycountymd.gov/Departments/Procurement Office](http://www.montgomerycountymd.gov/Departments/Procurement%20Office)

## ***RAPID***

The *RAPID* procurement system is a fee-based web application operated by the Office of Procurement. *RAPID* is updated on a continuous basis; enabling subscribers to review, access, and download up-to-date procurement information. Subscribers can opt as well, to receive weekly email notification of all procurement notices added to the system.

Also available to subscribers is a link to solicitation listings of local colleges, universities, and local, state, and federal governments.

The cost for a two-year subscription to the system is two hundred dollars (\$200). Subscribers are entitled to obtain general procurement information including:

- Maryland-National Capital Park and Planning Commission
- Montgomery County
- Montgomery College
- Montgomery County Housing Opportunities Commission
- Montgomery County Public Schools
- Washington Suburban Sanitary Commission
- Solicitation notices describing individual solicitations
- Copies of most Requests for Proposals (RFP's) and Invitation for Bids (IFB's)
- Bid tabulation results after opening IFB's

Subscriptions may be obtained by mailing a written request, with a check payable to Montgomery County, Maryland to:

- Montgomery County Office of Procurement
- 255 Rockville Pike, Suite 180
- Rockville, Maryland 20850

## Minority, Female, Disabled Persons Program (MFD)

If your company is currently Minority Business Enterprise (MBE) certified by the Maryland Department of Transportation (MDOT), the Washington Metropolitan Area Transit Authority (WMATA), or the Small Business Administration 8(a), the Montgomery County MFD Program will make a determination concerning your eligibility as an MFD company in Montgomery County. To qualify as a minority business, a firm must be at least 51% owned and controlled by minority individuals belonging to the following groups:

- African American
- Hispanic American
- Asian/Native American
- Female
- Disabled Persons

### **To obtain MBE certification, you must:**

- A. Contact either MDOT (410-865-1269), SBA 8(a) (202-606-4000 ext 306), or WMATA (202-962-1082) for an application.
- B. Provide the Montgomery County Office of Procurement MFD Program with the following documents:
  - Copy of your MDOT, SBA, or WMATA certification.
  - Copy of your completed vendor application.
- C. Contact the Montgomery County Office of Procurement  
255 Rockville Pike, Suite 180  
Rockville, Maryland 20850  
240-777-9900

### **Exclusions to MFD**

- Procurement of goods, services or construction under \$5,000.
- Grants appropriated by the County Council to specific grantees.
- Utilities.
- Intra governmental procurements.
- Intergovernmental procurements which include certain bridge contracts identified by the Director, Office of Procurement.

## MFD Program Specialist

The MFD Program Specialist is an advocate for minority business procurement and functions on many levels, public and private, to assure that minority firms are included in the procurement process of Montgomery County. Close attention is given to the following:

1. Expanding of the County's base of known MFDs and encouraging contacts for these firms in the following categories:
  - Professional Services
  - Non-Professional Services
  - Goods
  - Construction
2. Participating in procurement conferences, meetings and community activities designed to advance minority business development.
3. Implementing and administering the MFD-enabling legislation.
4. Developing and maintaining minority business education initiatives such as quarterly training seminars.

## MFD Goals

Current Montgomery County procurement MFD law is based on the Supreme Court ruling that local governments may set MFD procurement goals. According to availability by industry category and minority business ownership, the County's current availability goals in each of the purchasing categories for minority groups are:

### Construction

African American 2.23%	Hispanic American 2.09%	Asian/Native American 3.54%	Women-Owned 9.98%	Disabled 0.75%	Total % 18.59%
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### Professional Services

1.01%	0.29%	0.83%	9.63%	0.75%	Total % 12.51%
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### Other Than Professional Services

2.90%	0.98%	2.83%	11.94%	0.75%	Total % 19.40%
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### Goods

1.29%	0.57%	3.86%	11.09%	0.75%	Total % 17.56%
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As of fiscal year 2000

## Marketing Process for Minority Business

Apply For MDOT Certification

Determine Business Type

Obtain MDOT Certification

Submit MDOT Certification to  
Office of Procurement and Complete  
Vendor Registration Form

Subscribe to <i>RAPID</i> to Stay Current with Procurement Events and Information	Register for MFD Procurement Seminars Sponsored by Office of Procurement
Obtain Copy of CIP and Operating Budget	Set Up Schedule of Appointments with Target Department or Official
Attend Pre-Bid Conferences	Attend Bid Openings

### Important Other Considerations

Make Sure You Have a Functional Business Plan

Make Sure Your Company is Bondable Well Before  
You Seek to Obtain a Bond

Always Have Available the Following Marketing Tools:

- |                         |                   |
|-------------------------|-------------------|
| 1. Capability Statement | 3. E-Mail Address |
| 2. Brochures            | 4. Business Cards |



## Bonds and Insurance

Montgomery County requires a Performance Bond and a Labor and Material Payment Bond of 100% of the contract sum on all construction contracts. Bonding requirements are required when the using department, and the Director, Office of Procurement, deem it to be in the best interest of the County.

All bonds must meet the following minimum requirements:

- The surety company issuing the bond must be qualified to do business in the state of Maryland.
- The attorney-in-fact on the bond document must be properly authorized to bind the surety, which authorization may be documented by a power of attorney submitted with the bond, or the attorney-in-fact must be registered with the Circuit Court for Montgomery County, Maryland.
- The obligee of the bond must be "Montgomery County, Maryland."

### Insurance

General insurance requirements for contracts are specified by the Division of Risk Management and the Office of the County Attorney in the General Conditions between County and Contractor (PMMD-45). Prior to the issuance of any solution, the division of Risk Management should be consulted to determine if the standard requirements in the General Conditions are appropriate or if more specific requirements are appropriate. All insurance forms provided by the vendor showing appropriate coverage must be approved by Risk Management prior to contractual execution.

## Bid Opening

All Invitation for Bids (IFB), Request for Proposals (RFP) must be received in the Office of Procurement on the specified date and time in the solicitation.

## Late Bids

Responses to IFB's, RFP's or REOI's received after the specified date and time in a solicitation are considered late and may not, under any circumstances, be considered for any award resulting from the solicitation.

# Protests

Bidders/offerors have the right to protest a decision to award a bid/proposal. Only a bidder/offeror who has standing may file a protest. Standing means that the bidder/offeror who is filing the protest may be eligible for an award of the contract if the protest is sustained.

## Procedure

Vendor:

- A written protest must be received in the Office of Procurement no later than 10 days after the award has been posted publicly.
- A protest should be filed as early in the solicitation process as possible to enable timely correction of irregularities. Protests received after the 10 day deadline must be dismissed.
- Submits the following:
  1. Identification of the solicitation from the County.
  2. Name, address and telephone number of the offeror protesting.
  3. Statement supporting the standing of the offeror to file a protest.
  4. Specification of all grounds for the protest, including detailed facts and all relevant documents; reference to the language in the solicitation, regulations, or law relied upon; all other matters which the offeror contends supports the protest.

Procurement:

- Evaluates the evidence and determines the findings of the evaluation.
- Forwards by certified mail the determination of the protest.

## Appeal Process

If the bidder's/offeror's protest is denied by the Director of the Office of Procurement, the bidder/offeror may appeal the decision to the Contract Review Committee (CRC) within 10 days after the mailing of the decision. The final decision is subject to appeal to the Circuit Court under the Maryland rules governing administrative appeals.

## Responsiveness

Responsiveness is a determination of whether the bid conforms to all material aspects of the IFB. An offer which is determined to be non-responsive is rejected and must not be considered further. The determination of an offeror's responsiveness is made by the Director of the Office of Procurement who may solicit technical comments from the department and consult with the Office of the County Attorney.

### Responsive Determinations:

- Conformance with the terms and specifications of the IFB.
- Nature and scope of conditions attached to the bid.
- Deviations or failure to conform to a material part of the solicitation.
- Any other deviations contained in the bid.

# Responsibility

Responsibility is a determination based on characteristics of the offeror as opposed to the characteristics of the offer. The reputation, past performance, business and financial capability and other factors determine the responsibility of offerors and their capability to satisfy the County's needs and requirements for a specific contract. The offeror has the burden of demonstrating affirmatively its responsibility with solicitations. The Director of the Office Procurement must determine whether an offeror is responsible for all prospective contracts. A debarred potential offeror is automatically considered non-responsible in connection with specific solicitations.

## Responsibility Determinations:

- Ability, capacity, organization, facilities, and skill of the offeror to perform the contract or provide the goods or services required.
- Ability of the offeror to perform the contract or provide the services within the time specified without delay, interruption or interference.
- Integrity, reputation, and experience of the offeror and their key personnel.
- Quality of performance of previous contracts or services for the County or other entities. Past unsatisfactory performance, for any reason, is sufficient to justify a finding of non-responsibility.
- Previous and existing compliance by the offeror with laws and ordinances relating to the contract or services.
- Sufficient financial resources of the offeror to perform the contract or provide the services.
- Certification of an appropriate accounting system if required by the contract type.
- Bid bond and the offeror's evidence of ability to furnish a performance bond may be considered evidence of responsibility.
- Past debarment by the County or other entity.

## **IFB Submissions Checklist (Commodities)**

- ☐ Memorandum which includes:
  1. Signature of department head or designee
  2. General description of commodities to be purchased
  3. Estimated dollar value of procurement
  4. Name address and phone number of IFB technical contact
  5. Mailing codes (index/subobject codes) if you desire to have solicitation notices mailed to vendors
  6. List of potential bidders (if solicitation notice is to be mailed see 5 above)
  7. Pre-bid conference date and location
  8. Justification for contract term that is longer than three years (one year with two one year renewals is standard) if applicable
  9. Justification for shorter response time (30 days is standard)
- ☐ One original copy of specifications, quote sheet, and any Conditions not in the boiler plate
- ☐ One diskette of above (MS WORD)
- ☐ Risk Management approval of insurance requirements
- ☐ Name and address of potential bidders on labels
- ☐ ADPICS requisition **with correct commodity code**
- ☐ Other Attachments (forms, maps designs, etc.)
- ☐ Performance, Material and Bid Bond requirements with justification if applicable

**IFB  
Submission  
Checklist  
(Construction)**

- ☐ Memorandum which includes:
  1. Signature of Department Head or designee
  2. General description of construction
  3. Estimated dollar value
  4. Name address and phone number of IFB technical contact
  5. Pre-bid conference location (if applicable)
  6. Advertising: publication is determined by the end user (department)
  7. Mailing codes ( index/subobject codes) if you desire to have solicitation notices mailed to vendors
- ☐ Two draft copies of proposed IFB
- ☐ Risk Management approval of insurance requirements
- ☐ Name and address of potential bidders on labels (if solicitations are to be mailed - see 7 above)
- ☐ ADPICS requisition **with correct commodity code** (may have multiple codes)

## **Informal Solicitation (Small Purchase) Checklist**

- ☐ 1. One original copy of specifications and any required Special Terms and Conditions not in General Conditions of Contract Between County & Contractor
- ☐ Copy of above on diskette (MS Word)
- ☐ ADPICS requisition with correct commodity code
- ☐ List of potential bidders, on labels, including previous supplier
- ☐ Approval of insurance requirements by Risk Management



When submitting a request for proposal, the following items must be provided:

## **RFP/REOI Submissions Checklist**

- ☐ Memorandum which includes:
  1. Original signature of department head
  2. Description of services
  3. Estimated Annual Cost and source of funding (not applicable for REOI)
  4. Qualification and Selection Committee (Q&SC) members identifying the following:
    - a.) Name of each
    - b.) Title
    - c.) Department name, or name of public entity employed by Team leader of the Q&SC
  5. Name and phone number of RFP technical contact
  6. Pre-submission conference date and location (if applicable)
  7. Justification for contract term that is longer than three years (one year with two one year renewals is standard), (if applicable.)
  8. Justification for shortened response time (30 days is standard).
- ☐ One copy of the draft request for proposal which includes:
  1. Scope of services
  2. Contract term
  3. Compensation/Payment clause
  4. Method of award and evaluation criteria
  5. Proposal submissions
  6. Administrative requirements
- ☐ One copy of RFP on diskette (MS Word)
- ☐ Risk Management approval of insurance requirements
- ☐ ADPICS requisition or certification from Director of Finance that sufficient funds are available
- ☐ List of potential offerors on labels
- ☐ Other attachments (maps, forms, etc.)

## Mini-Contract Submissions Checklist

When submitting a mini-contract for approval, the following items must be provided:

- ☐ Memorandum which includes:
  1. Original signature of department head
  2. Description of services or scope of work
  3. Name and number of companies solicited (at least five required) including efforts to obtain MFD firms
  4. Name and number of companies responding
  5. Copy of listing of vendors obtained from Procurement
  6. Basis of award
    - a) Award to the lowest price, or
    - b) Award to the highest ranked (include the evaluation scoring)
  7. Contract value or cost of services
  8. Department contact name and phone number
  9. Affirmation that the prices are fair and reasonable
  10. Affirmation that the competitive requirements were met
- ☐ All proposals received - the winning proposal or contract must contain the following:
  1. Original authorized signature(s)
  2. Detailed scope of work
  3. Contract term or completion date
  4. Compensation
  5. Payment terms
  6. General terms and conditions
- ☐ Risk Management approval of insurance certificates
- ☐ ADPICS requisition or certification from Director of Finance that sufficient funds are available

When submitting a request for non-competitive contracts, the following items must be provided:

## **Non-Competitive Submissions Checklist**

- ☐ Memorandum which includes:
  1. Original signature of department head
  2. Scope of work or specifications
  3. Justification for non-competitive procurement
  4. Contract value
  5. Contract term
- ☐ Contract document including signatures of:
  1. Department Head
  2. Contractor
  3. County Attorney
- ☐ Risk Management approval of insurance certificates
- ☐ ADPICS requisition

## Emergency Procurement Checklist

**If Approved by Director of Procurement** (Director of Procurement approves if available, if not the Director of Using Department may approve)

- ☐ ADPICS DPO to be approved by the Office of Procurement
- ☐ Memorandum from the Department Head, to Director of Procurement within five days of oral or written authorization of procurement with a copy to CAO. Memorandum should include:
  1. Facts and circumstances of emergency
  2. Description of goods and services obtained
  3. Actual or not to exceed price
  4. Contacts and result of those contacts

**If Approved by Department Head**

- ☐ Same as above; however the memorandum must also include the date authorization and the name and title of the person who authorized the emergency procurement.

## Bridge Contracts Submissions Checklist

- ☐ Memorandum which includes:
  1. Signature of Department Head or designee
  2. Items and estimated value of services
  3. Statement that “the contract provides materially the same goods, services or construction being provided the other public entity at the same prices being charged the other public entity and that it is in the best interest of the County.”
- ☐ Letter quote or letter proposal which includes: \*
  1. Signature of an authorized officer of the firm.
  2. Scope of work and/or equipment or materials to be delivered.
  3. Delivery or completion date.
  4. Payment Terms of Net 30.
  5. Confirmation of acceptance of the County's General Conditions.
- ☐ Copy of the contract to be bridged with amendments and expiration date of contract.
- ☐ Minority, Female, and Disabled Persons Program compliance or request for a waiver of the MFD if the contract will exceed \$65,000.
- ☐ Insurance certificates and approval of insurance from Risk Management.

\* In some cases, the Office of Procurement will recommend a contract document. If the Department and the Office of Procurement agree that a separate and distinct contract for the scope of work is in the best interest of the County, the document must be approved and signed by the County Attorney, the Department Head, and the Office of Procurement.

## Public Entity Procurement Checklist

### Public Entity Definition:

(1) the Federal, state and local governments or their agencies; (2) boards, commissions, or committees established by a Federal, state, or local law; (3) government organizations or associations of the federal government, state governments, or political subdivisions of state governments; or (4) any other entity that both qualifies as a not-for-profit corporation under the provisions of the United States Internal Revenue Code and which is incorporated by one of the preceding entities for the exclusive purpose of supporting or benefiting a public entity. See Chapter 11B, Montgomery County Code.

### Checklist

- ☐ Memorandum from the Department Head or designee which includes:
  - 1. Description of goods or services to be procured
  - 2. Total dollar value of the procurement
  - 3. Status of the public entity (see definition above)
  - 4. Contact Term
  - 5. Statement that the agreement with the public entity is in the best interest of the County
  - 6. Statement that the procurement is cost effective
  - 7. ADPICS requisition #
- ☐ One original and two copies of the Agreement with the following signatures:
  - 1. Department Head
  - 2. County Attorney
  - 3. Authorized Public Entity Representative
- ☐ Risk Management approved insurance certificates if applicable
- ☐ Bonding (Performance and/or Labor Material) if applicable

Contract Review Committee

General Guidelines

The Contract Review Committee is a standing committee required by law to review procurement matters as follows:

- 1. **Noncompetitive procurements greater than \$25,000 (see attached checklist).**
- 2. Most amendments/modifications/change orders greater than \$25,000 (see attached checklist).
- 3. Open Solicitation plans (see attached checklist).
- 4. Extensions beyond the original contract term.
- 5. Other matters referred by the Director, Office of Procurement or Chief Administrative Officer.

CRC meetings are held Thursdays at 1:30 p.m. in the Office of Procurement Conference Room 111, 255 Rockville Pike, Rockville, Suite 180, Rockville, Maryland.

Committee members consist of the following

Assistant Chief Administrative Officer	<i>Voting member</i>
Representative, Office of Management and Budget	<i>Voting member</i>
Director, Office of Procurement	<i>Voting member</i>
Contract Administrator, Office of Procurement	
Representative, Office of the County Attorney	
Representative, Contract Administrators Committee	

CRC submissions are due in the Office of Procurement by close of business Friday preceding the next CRC meeting.

Incomplete packages sent to procurement for CRC review will be returned to the using departments.

One original and five (5) copies of the memorandum and all attachments must be submitted by close of business Friday prior to the Thursday CRC meeting.

CRC does not generally review the following types of procurements unless recommended by the Director, Office of Procurement:

- 1. Public Entity Agreements
- 2. Bridge Contracts
- 3. Noncompetitive contracts and noncompetitive contract amendments under \$25,000
- 4. Price adjustments requested within the scope of the contract
- 5. Request for Proposals/Invitation for Bids
- 6. Amendments/modifications/change orders where a change in scope is less than \$25,000
- 7. Grants as a result of County Council resolutions.

## Checklist for CRC Submissions

**PROCUREMENT TYPE: Amendments/modifications/change orders greater than \$25,000 where there is a change in the scope of services**

✓ Memorandum signed by the Department Head in the following format:

TO: Beatrice P. Tignor, Director  
Office of Procurement

FROM: Department Head  
Department of

SUBJECT: Request for Contract Review Committee Approval

### Background

Indicate the issues surrounding the request

### Discussion

Discuss and answer the following:

- Who
- What
- When
- Where
- Why
- How much
- How *Procurement Regulation Section 11.1* is being met (see attached).

Request must include the following:

- What is being requested
- Contract value or project value
- Indicate if the Office of the County Attorney has reviewed the document or that County Attorney approval is contingent upon Contract Review Committee approval.

✓ One Original and five (5) copies of the memorandum and all attachments

✓ To amend legally the scope of services in a contract, case law dictates that these services must have been originally included in the solicitation. If amending the scope of services under these circumstances, a copy of the solicitation (page from RFP) showing these services must be submitted in the package.



## 11 **CONTRACT MODIFICATIONS**

### 11.1 **General**

#### 11.1.1 **Authorization**

Contract modifications may be initiated by either the contractor, contracting officer or the contract administrator. A contract modification is not effective, and a contractor must not proceed with performance under the modification, until and unless the contract modification is executed by the contracting officer.

#### 11.1.2 **Use**

11.1.2.1 Under extraordinary circumstances, the Director may approve a contract modification:

- for goods, services, or construction that has already been provided;
- to a contract that has expired; or
- to a contract that has been fully completed.

11.1.2.2 A contract modification may be used to approve an equitable adjustment in the case of a unilateral change order. Subject to Chapter 20 of the County Code, a contract modification may be used to approve the settlement of a potential or pending contract dispute.

#### 11.1.3 **Policy for Contract Modifications which Change the Scope of a Contract**

Contract modifications may not provide for less than full performance by the contractor as provided in the contract unless the contractor, in exchange, gives full and fair consideration (discount on contract price, additional work, etc.) in exchange for the contract modification. The County must not pay any additional monies under a contract modification for work which was required to be performed under the contract.

#### 11.1.4 **Review**

11.1.4.1 The Director reviews the proposed contract modification, with attachments. If the proposed contract modification exceeds the threshold for an IFB or RFP, the Director must refer the contract modification to the CRC for review unless the Director determines that the change in compensation results from a mechanical application of an established cost indexing provision or other contract option which pre-determines price. Otherwise, the Director may approve the modification.

11.1.4.2 The CRC reviews contract modifications referred by the Director. The CRC may approve, approve with conditions or reject any contract modification.

## Checklist for CRC Submissions

### PROCUREMENT TYPE: Extensions Beyond the Term of the Original Term

- ✓ Memorandum signed by the Department Head in the following format:

TO: Beatrice P. Tignor, Director  
Office of Procurement

FROM: Department Head  
Department of

SUBJECT: Request for Contract Review Committee Approval

#### Background

Indicate the issues surrounding the request

#### Discussion

Discuss and answer the following:

- Who
- What
- When
- Where
- How much
- Why the term must be extended beyond the term
- Cost impact (price increase, or no price adjustment)

Request must include the following:

- What is being requested
- Contract value or project value
- Indicate if the Office of the County Attorney has reviewed the document or that County Attorney approval is contingent upon CRC approval.

- ✓ One original and five (5) copies of memorandum and all attachments

- ✓ If a new solicitation is being processed, the amendment must include the following language:

*“The contract term is extended through \_\_\_\_\_, with the stipulation that if the County executes a new contract covering the services provided under this contract, the County may, at no cost or obligation to the County, terminate this contract upon ten days written notice.”*

## Checklist for CRC Submissions

### PROCUREMENT TYPE: Noncompetitive procurements greater than \$25,000

- ✓ Memorandum signed by the Department Head in the following format:

TO: Beatrice P. Tignor, Director  
Office of Procurement  
FROM: Department Head  
Department of  
SUBJECT: Request for Contract Review Committee Approval

#### Background

Indicate the issues surrounding the request

#### Discussion

Discuss and answer the following:

- Who
- What
- When
- Where
- How much
- Why
- How the requests meets Procurement Regulations, Section 4.1.12.2 (see attached). Please note specifically which factor listed under 4.1.12.3 is being used as justification.

Request must include the following:

- What is being requested
- Contract value or project value
- Indicate if the Office of the County Attorney has reviewed the document or that County Attorney approval is contingent upon CRC approval.

- ✓ One Original and five (5) copies of the memorandum and all attachments

#### 4.1.12 **Non-Competitive Procurements**

##### 4.1.12.1 **General**

A non-competitive procurement is the acquisition by contract of a valid County requirement without prior public notice and without competition.

##### 4.1.12.2 **Authority**

The Director may make a non-competitive award unless the non-competitive award is based on a sole source justification and the estimated value of the award is above \$25,000. If the estimated value of the non-competitive award based on a sole source justification exceeds the threshold for an IFB or RFP, the CRC may make a non-competitive award after reviewing a recommendation from the Director. A non-competitive award must be based on a determination and finding.

##### 4.1.12.3 **Use**

A non-competitive procurement may be made if the non-competitive award serves a public purpose and one or more of the following factors exist:

- (a) There is only one source for the required goods, service, or construction which can meet the minimum valid needs of the County. The basis for identifying a sole source includes:
  - (1) Proprietary, patented, or copyrighted items or information are available from only one source;
  - (2) The valid performance or delivery due dates required by the County can be met by only one source;
  - (3) The required compatibility of equipment, accessories, software, or replacement parts can be met by only one source;
  - (4) The County requires for trial use or testing an item or service available from only one source;

- (5) Required public utility services are available from only one source; or
  - (6) A continuous series of procurements from a single source over a period of time is advantageous as demonstrated by a cost benefit analysis demonstrating that considerations of training, replacement parts, and compatibility with existing capital investments justify the use of a sole source.
- (b) The County requires goods or services for potential or pending litigation, condemnation, or collective bargaining.
  - (c) A contractor or subcontractor has been specifically identified in a grant accepted by the County.
  - (d) A proposed contractor has been identified in a grant resolution approved by the Council.

#### 4.1.12.4 **Contents**

A non-competitive procurement must contain, at a minimum, the following documentation:

- (a) A contract which includes specifications reflecting the minimum valid needs of the County. The specifications must be narrowly drawn so as not to exceed the reason which justifies the non-competitive award.
- (b) A memorandum from the Using Department Head to the Director which contains a full explanation and justification for the non-competitive procurement.

## Checklist for CRC Submissions

### **PROCUREMENT TYPE: Open Solicitation Plan no specific dollar value**

- ✓ Memorandum signed by the Department Head in the following format:

TO: Beatrice P. Tignor, Director  
Office of Procurement

FROM: Department Head

SUBJECT: Department of  
Request for Contract Review Committee Approval

#### Background

Indicate the issues surrounding the request

#### Discussion

Discuss and answer the following:

- Who
- What
- When
- Where
- Why
- How much
- *How Procurement Regulation Section 4.1.6 is being met (see attached).*

Request must include the following:

- What is being requested
- Contract value or project value
- Date that the Office of the County Attorney reviewed the document or that County Attorney approval is contingent upon CRC approval.

- ✓ One original and five (5) copies of memorandum and all attachments

#### 4.1.6 Open solicitation

##### 4.1.6.1 General

An open solicitation is a process by which the County accepts applications for a contract on a continuing basis and awards a contract to each applicant who meets pre-established minimum qualifications subject to the available funds.

##### 4.1.6.2 Use

An open solicitation is used when the County desires to award a contract to all persons who meet certain minimum pre-established qualifications. Examples of when an open solicitation might be used are:

- (a) Obtaining instructors for teaching classes to the general public under programs sponsored by a Using Department;
- (b) Obtaining participants in a grant program sponsored by a Using Department; and
- (c) Providing goods or services to clients identified by a Using Department.

##### 4.1.6.3 Procedure

- (a) The Using Department submits to the CRC for approval a plan which:
  - (1) Provides for periodic public notice inviting potential contractors to apply for a contract;
  - (2) Establishes an application process for a potential contractor to follow in order to obtain a contract under the open solicitation;
  - (3) Establishes the criteria under which an application for a contract will be accepted or rejected;
  - (4) Uses a pre-approved form contract which each successful contractor will be required to execute; and
  - (5) Ensures that the cost of all contracts entered into under the plan will not exceed available appropriated funds.
- (b) The Director, or if authorized by the Director the Using Department Head, may award a contract to a person who meets the pre-established minimum qualifications under the open solicitation if the solicitation and contract are consistent with the plan approved by the CRC.

## ATTACHMENT

### SAMPLES

The attached samples are provided for your use when drafting documents requiring Contract Review Committee approval. Please note that the format may change depending on a particular procurement matter.

- Amendment format for Amendments/Modifications/Change Orders
- Amendment format for Extensions Beyond the Term of the Original
- Contract
- Letter Form requesting Noncompetitive Procurement
- Open Solicitation format



SAMPLE  
(Amendments/modifications/change orders greater than  
\$25,000 where there is a change in the scope of services)

AMENDMENT#  
CONTRACT#

This Amendment is between Montgomery County, Maryland (the “County”) and (Contractor’s Name)  
(the “Contractor”).

**BACKGROUND**

- 1. The parties entered into Contract # \_\_\_\_\_ on (date contract was signed)
- 2. The present contract expiration date is \_\_\_\_\_.
- 3. The maximum amount payable under this contract for all goods and services provided through the present contract expiration date is \$ \_\_\_\_\_.
- 4. The purpose of the Contract is \_\_\_\_\_.
- 5. The purpose of this amendment is to \_\_\_\_\_.

**CHANGES**

- 1. The scope of services is changed as follows: \_\_\_\_\_
- 2. The compensation for goods or services provided from (*start date of new period*) through (*new expiration date*) will be a maximum amount not to exceed \$ \_\_\_\_\_.
- 3. The maximum amount payable under this contract for all goods and services is increased by \$ \_\_\_\_\_ from \$ \_\_\_\_\_ to \$ \_\_\_\_\_.

**EFFECT**

- 1. Existing Contract terms remain in effect unless specifically changed by this amendment.
- 2. This amendment is entered into prior to the expiration date.
- 3. This amendment is entered into on the date of signature of the Director, Office of Procurement.
- 4. No goods or services are to be provided pursuant to this amendment until it is signed by the Director, Office of Procurement.

CONTRACT AMENDMENT #  
 (Contractor's Name)  
 Contract # (Contract #)  
 Page 2

(CONTRACTOR'S NAME)

MONTGOMERY COUNTY, MARYLAND

Dr. Beatrice P Tignor, Director  
 Office of Procurement

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*  
 \* CORPORATE  
 \* SEAL  
 \*  
 \*\*\*\*\*  
 OR

#### RECOMMENDED

By  
 (Department Head Name), Director  
 (Department Name)

Date: \_\_\_\_\_

#### CORPORATE ATTESTATION

I hereby affirm that the abovenamed  
 person is a corporate officer and  
 empowered to sign contractual  
 agreements for the corporation.

Signed : \_\_\_\_\_

Printed/Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM & LEGALITY  
 OFFICE OF THE COUNTY ATTORNEY

By: \_\_\_\_\_

Date: \_\_\_\_\_

SAMPLE  
(Extension Beyond the Term of the Original Term)

AMENDMENT#  
CONTRACT#

This Amendment is between Montgomery County, Maryland (the “County”) and  
(Contractor’s Name) (the “Contractor”)

**BACKGROUND**

1. The parties entered into Contract #\_\_\_\_\_ on \_\_\_\_\_.
2. The present contract expiration date is \_\_\_\_\_.
3. The maximum amount payable under this contract for all goods and services provided through the present contract expiration date is \$ \_\_\_\_\_.
4. The purpose of the Contract is to provide \_\_\_\_\_.
5. The purpose of this amendment is to extend the contract term.

**CHANGES**

1. The contract term is extended through \_\_\_\_\_ with the stipulation that if the County executes a new contract covering the services provided under this contract, the County may, at no cost or obligation to the County, terminate this contract upon ten days written notice.
2. The compensation for goods or services provided from \_\_\_\_\_ 2000 through \_\_\_\_\_ 2000 will be a maximum amount not to exceed \$ \_\_\_\_\_.
3. The maximum amount payable under this contract for all goods and services is increased by \$ \_\_\_\_\_ from \$ \_\_\_\_\_ to \$ \_\_\_\_\_.

**EFFECT**

1. Existing Contract terms remain in effect unless specifically changed by this amendment.
2. This amendment is entered into prior to the expiration date
3. This amendment is entered into on the date of signature of the Director, Office of Procurement.
4. No goods or services are to be provided pursuant to this amendment until it is signed by the Director, Office of Procurement.

CONTRACT AMENDMENT #  
 (Contractor's Name)  
 Contract # (Contract #)  
 Page 2

(CONTRACTOR'S NAME)

MONTGOMERY COUNTY, MARYLAND

Dr. Beatrice P Tignor, Director  
 Office of Procurement

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*  
 \* CORPORATE  
 \* SEAL  
 \*  
 \*\*\*\*\*  
 OR

**RECOMMENDED**

By  
 (Department Head Name), Director  
 (Department Name)  
 Date: \_\_\_\_\_

**CORPORATE ATTESTATION**

I hereby affirm that the abovenamed  
 person is a corporate officer and  
 empowered to sign contractual  
 agreements for the corporation.

Signed : \_\_\_\_\_

Printed/Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM & LEGALITY  
 OFFICE OF THE COUNTY ATTORNEY**

By: \_\_\_\_\_

Date: \_\_\_\_\_

DEPARTMENT OF INFORMATION SYSTEMS AND TELECOMMUNICATIONS

Douglas M. Duncan  
*County Executive*

Donald V. Evans  
*Director*

MEMORANDUM  
October 8, 1998

TO: Beatrice P. Tignor, Director  
Office of Procurement

FROM: Donald V. Evans, Director  
Department of Information Systems and Telecommunications

SUBJECT: Sole Source Justification - IMF Software Maintenance With Boole & Babbage Inc.

The Department of Information Systems and Telecommunications would like to enter into a Sole Source Contract Agreement with Boole & Babbage, Inc. for the maintenance of the IMS/VS Management facility (IMF) Software. The IMF software is an essential component installed on the mainframe to provide performance monitoring on the County’s Information Management Systems/Virtual Storage System (IMS/VS). The current contracted software maintenance support for this component expires on October 31, 1998.

The first year’s cost would be \$33,660.00. This is a fair and reasonable price for this service. Only Boole & Babbage, Inc. can provide the software maintenance for the IMF product due to the proprietary nature of the software. This meets the requirement of Section 4.1.12.3 (a) (1) of the County’s Procurement Regulation item that states ‘Proprietary, patented or copyrighted items or information are available from only one source.’ Boole & Babbage, Inc. has proven to be a responsive firm for the past ten years.

DVE:eg

## M E M O R A N D U M

TO: Contract Review Committee

VIA: Dr. Beatrice P. Tignor Director, Office of Procurement

FROM: Carolyn G. Biggins, Chief, Division of Transit Services

SUBJ: Open Solicitation for Fare Media Sales

ISSUE

To approve the Open Solicitation Plan for the Division of Transit Services for Fare Media Sales.

BACKGROUND

1. The County entered into agreement with several companies beginning in 1989 for the purpose of selling to the general public fare media for Ride On. These fare media sales outlets provide an essential part of the County's efforts to make mass transit easy and accessible by providing outlets other than County facilities where the general public could purchase fare media. This service has continued to expand and grow over the last several years and has continued to provide one stop shopping for those purchasing various Ride On fare media.
2. This sales outlet concept was determined to be the best available method of providing additional sales outlets for the sale of fare media to the general public. Prior to these agreements only County agencies were selling Ride On fare media. In addition, some businesses were required to sell fare media to employees via development agreements with the County. These sales outlets have become an integral part of maintaining the current mass transit riders and to help increase ridership by making it very easy to purchase tickets.
3. The Division of Transit Services established a maximum 4% commission to help offset the participants cost of handling and securing the fare media. This commission is considered fair and reasonable for the service provided.

## SAMPLE FORMAT

### OPEN SOLICITATION PLAN FOR

#### FARE MEDIA RETAIL SALES

As required by Procurement Regulation 15 94 AM, Section 4. 1 6.3 (a) , the Division of Transit Services (DTS) is submitting this plan for the Contract Review Committees approval.

#### Section 4.1.6.3 Procedure

(1) Public Notice It is proposed that public notice will be provided by advertising on a semiannual basis in the local newspaper or general circulation. The Office of Procurement will advertise in all County libraries and in the County bulletin board. A proposed notice is attached. Twice a year, public notice will be provided in a newspaper with circulation in the greater Washington metropolitan area. Notice will also be given to the current contractors with whom the county currently contracts for the above services.

(2) Application Process A proposed application is attached for review. After public notice of the open solicitation, any interested contractors/ companies will be able to contact the Service Planning and Operations Support Section to request a copy of the solicitation. The solicitation will contain the minimum requirements, an application form with instructions, and a sample of the specific fare media sales program contract requested. All interested parties will be requested to sign a receipt for the open solicitation and sample contract with requirements.

(3) Criteria for accepting or rejecting The solicitation packet contains mandatory requirements for each of the fare media sales program contracts and the criteria upon which applicants will be accepted. The Service Planning and Operations Support Section and the Contract Manager will review the applications received for each of these fare media sales programs based upon the requirements of each program, the acceptance of established rates for the service, and the qualifications. Contracts will be offered to every applicant that can meet the requirements and provide the service.

(4) Proposed Contract Forms - A sample of each contract is attached. The solicitation includes a description of the requirements identified on each of the proposed contracts for each of these programs. Each applicant must acknowledge acceptance of these requirements if they are opting to participate in any of these fare media sales programs. Negotiation is not intended for these program contracts.

(5) Cost of Contracts will not exceed available appropriations. Prior to encumbrance of funds for each of these programs under this open solicitation, the total available appropriation for the programs will be verified by the Division of Transit Services Management Services Section for final authorization of funds. The Management Services Section will monitor the expenditures for each executed contract under each of these fare media sales programs and ensure that authorized purchase orders for each contract are not exceeded.

(6) DTS agrees to review this open solicitation every two years and to report its findings to the CRC for their review of this plan.

*PUBLIC NOTICE*

Montgomery County

Notice of open solicitation

Montgomery County Department of Transportation is seeking applications for individual companies/businesses under Procurement Regulation 1594 AM, Section 4.1.6, titled Open Solicitation to provide one or more of the following services for the Division of Transit Services fare media sales programs:

FARE MEDIA SALES PROGRAM - RIDE ON 20TRIP TICKETS

FARE MEDIA SALES PROGRAM - RIDE ON TWOWEEK RIDE-ABOUT PASS

FARE MEDIA SALES PROGRAM - RIDE ON MONTHLY COUNTY CRUISER PASS

FARE MEDIA SALES PROGRAM - RIDE ON TOKEN ROLLS

Should you have any questions about any of these services contact the Service, Planning and Operation Support Section at (240) 777-5863.

To obtain a copy of the open solicitation, interested parties should contact the Service Planning and Operations Support Section at (240) 777-5863. Application forms will be provided for interested parties who wish to apply for any of the above mentioned transportation programs.

All qualified applicants who meet the terms and conditions of this solicitation will receive a contract for each selected program(s), subject to the appropriation of funds by the County Council. The County does not guarantee a minimum number of fare media sales for any company or business that qualifies for a contract for any of these programs.



APPLICATION FORM

Open Solicitation For FARE MEDIA SALES Services

SECTION I.

Montgomery County Department of Transportation is seeking applications for individual companies/contractors under Procurement Regulation 1594 AM, Section 4.1.6, titled Open Solicitation to provide one or more of the following services for the Division of Transit Services transportation programs:

\_\_\_\_\_FARE MEDIA SALES PROGRAM RIDE ON 20TRIP TICKETS

\_\_\_\_\_FARE MEDIA SALES PROGRAM RIDE ON TWOWEEK RIDEABOUT PASS

\_\_\_\_\_FARE MEDIA SALES PROGRAM RIDE ON MONTHLY COUNTY CRUISER PASS

\_\_\_\_\_FARE MEDIA SALES PROGRAM RIDE ON TOKENS

Please indicate the program(s) in which you wish to participate by checking the appropriate program(s) above.

=====

SECTION II.

Company Name: \_\_\_\_\_ Contact: \_\_\_\_\_  
(Print or type)

Company Address: \_\_\_\_\_

City & State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

SS#: \_\_\_\_\_ Fed ID #: \_\_\_\_\_

=====

SECTION III.

Please submit the following information

1. Signature page.
2. Application form (this page) including signature page (next page)
3. Brief outline including the following:

Previous experience providing similar sales service.

Type and number of fare media expected to be sold.

Description of business where fare media will be sold.

Identify trip reduction estimates resulting from fare media sales, if applicable.

MONTGOMERY COUNTY, MARYLAND

Department of Transportation

Division of Transit Services

OPEN SOLICITATION FARE MEDIA SALES SERVICES

OPEN SOLICITATION MATERIALS PACKET/APPLICATION

for

“OPEN SOLICITATION” #\_\_\_\_\_.



## DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

Douglas M. Duncan  
County Executive

Graham J. Norton  
Director

## MEMORANDUM

March 13, 1995

TO: Contract Review Committee

VIA: Dr. Beatrice P. Tignor, Director, Office of Procurement

FROM: Carolyn G. Biggins, Chief, Division of Transit Services

SUBJECT: Open Solicitation for Fare Media Sales

ISSUE

To approve the Open Solicitation Plan for the Division of Transit Services' for Fare Media Sales.

BACKGROUND

1. The County entered into agreement with several companies beginning in 1989 for the purpose of selling to the general public fare media for Ride On. These fare media sales outlets provided an essential part of the County's efforts to make mass transit easy and accessible by providing outlets other than County facilities where the general public could purchase fare media. This service has continued to expand and grow over the last several years and has continued to provide one stop shopping for those purchasing various Ride On fare media.
2. This sales outlet concept was determined to be the best, available method of providing additional sales outlets for the sale of fare media to the general public. Prior to these agreements only County agencies were selling Ride On fare media. In addition, some businesses were required to sell fare media to employees via development agreements with the county. These sales outlets have become an integral part of maintaining the current mass transit riders and to help increase ridership by making it very easy to purchase tickets.
3. The Division of Transit Services established a maximum 4% commission to help offset the participant's cost of handling and securing the fare media. This commission is considered fair and reasonable for the service provided.

Division of Transit Services

CRC  
Open Solicitation Plan  
page two

## DISCUSSION

1. The fare media sales agreements play an important role in providing fare media to the general public. The division of Transit Services continues to solicit new outlets so that mass transit users have an easily obtainable supply of transit fare media. A review of this program resulted in a decision to explore the option of a new "Open Solicitation" plan under the recently revised Procurement Regulations to make entry into this program easy and less time consuming. This would address the concerns raised by several potential participants regarding the complexity and length of the agreement process.
2. As part of this effort to establish an "Open Solicitation" plan under the new Procurement Regulations, DTS has reviewed its current program and concluded that four types of fare media should be included in such as plan. These are the Ride On 20-Trip Tickets, Two-Week Ride-About Pass, the Monthly County Cruisers Pass and tokens. With this accomplished, DTS has completed its work in an "Open Solicitation" plan for this fare media program and submits it for CRC's review and approval.
3. This "Open Solicitation" plan as proposed includes a two-year review period during which time DTS staff will monitor the plan. At the end of the two years, DTS will provide the Office of Procurement and the CRC with a report on the plan. During this initial two year period, DTS has proposed an advertising schedule including a Public Notice, an application process, a review process for accepting or rejecting each applicant, proposed contract forms, and cost information. Each applicant will have its application reviewed by a review team and will only be accepted in any or all of these programs if they meet the criteria for service expertise, and insurance coverage requirements. The COUNTY will evaluate and confirm the CONTRACTOR'S ability to comply with the program's requirements.
4. DTS has also submitted this plan to the County Attorney for review as to form and legality. Once the plan has been approved, DTS will provide all interested parties with the application forms and information for their participation.
5. Price is not an issue since all participants will receive a commission of 4% as payment for handling and administrative costs.

## REQUEST

Request approval of the attached "Open Solicitation" plan for the sale of Ride On fare media. If you have any questions please contact me or Jeff Marti of my staff at extension 2951.

1. \_\_\_\_\_ FARE MEDIA SALES PROGRAM - RIDE ON 20TRIP TICKETS
  - A Montgomery County Location.
  - B Insurance Certificate proving minimum insurance required.
  - C Licensed retail business in Montgomery County, Maryland.
  - D Minimum order placed is \$100/Minimum sold is 10 20 per year.
2. \_\_\_\_\_ FARE MEDIA SALES PROGRAM - RIDE ON TWO-WEEK RIDE-ABOUT PASS
  - A Montgomery County Location.
  - B Insurance Certificate proving minimum insurance required.
  - C Licensed retail business in Montgomery County, Maryland.
  - D Minimum order placed is \$100/Minimum sold is 10 20 per year.
3. \_\_\_\_\_ FARE MEDIA SALES PROGRAM - RIDE ON COUNTY CRUISER PASS
  - A Montgomery County Location.
  - B Insurance Certificate proving minimum insurance required.
  - C Licensed retail business in Montgomery County, Maryland.
  - D Minimum order placed is \$100/Minimum sold is 10 20 per year.
4. \_\_\_\_\_ FARE MEDIA SALES PROGRAM - RIDE ON TOKEN ROLLS
  - A Montgomery County Location.
  - B Insurance Certificate proving minimum insurance required.
  - C Licensed retail business in Montgomery County, Maryland.
  - D Minimum order placed is \$100/Minimum sold is 10 20 per year.

SECTION IV

The commission rates for these services are set by the County for each of the programs. The County will reimburse contractors at the established commission for each piece of fare media sold in these programs.

FARE MEDIA SALES PROGRAM RIDE ON 20TRIP TICKETS

4% commission on each ticket sold

FARE MEDIA SALES PROGRAM RIDE ON TWOWEEK RIDEABOUT PASS

4% commission on each pass sold

FARE MEDIA SALES PROGRAM RIDE ON COUNTY CRUISER PASS

4% commission on each pass sold

FARE MEDIA SALES PROGRAM RIDE ON TOKEN ROLLS

4% commission on each roll sold

Written acceptance of commission rates.

=====

I, \_\_\_\_\_, hereby acknowledge and understand that the above  
(signature)  
rates for each of these sales programs checked for participation by \_\_\_\_\_,  
(Company Name)  
if qualified and accepted by the County to participate in these programs.

SECTION V. SIGNATURE PAGE

OPEN SOLICATION CONTRACT # \_\_\_\_\_

FARE MEDIA SALE OF RIDE ON 20TRIP TICKET/TWOWEEK RIDEABOUT PASS/  
COUNTY CRUISER/TOKEN ROLLS

This Contract is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between  
\_\_\_\_\_(hereinafter referred to as ("CONTRACTOR")) and  
Montgomery County, Maryland (hereinafter referred to as ("COUNTY")).

This contract is entered into only upon signature by the Director, Office of Procurement, and will become effective on the date of signature by the Director, Office of Procurement.

This contract arises upon the submittal by the CONTRACTOR of the required Application Form found on pages 13 of the Open Solicitation Materials Packet /Application, in a manner consistent with the required criteria stated therein and the acceptance of that Application Form by the COUNTY.

CONTRACTOR agrees to comply with and provide services for which it is accepted in accordance with, the required Scope of Services, Performance Standards, Administrative Requirements, and any and all other terms and conditions stated in the following pages 4 through 6 and Attachment A hereto attached. The provisions contained in and attached to the Open Solicitation Materials Packet /Application are incorporated by reference herein and is made a part of this contract.

## SIGNATURES

\_\_\_\_\_  
NAME OF CORPORATION

MONTGOMERY COUNTY, MARYLAND

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNED

\_\_\_\_\_  
TYPE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE

RECOMMENDED BY:

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Carolyn G. Biggins, Chief  
Division of Transit Services

CORPORATE SEAL

or

Corporate Attestation

I hereby affirm that the above named  
person is a corporate officer empowered  
to sign contractual agreements for the  
corporation.

Date: \_\_\_\_\_

THIS FORM HAS BEEN APPROVED AS TO  
FORM AND LEGALITY BY THE OFFICE OF  
THE COUNTY ATTORNEY. THIS FORM MAY  
NOT BE MODIFIED WITHOUT THE  
APPROVAL OF THE OFFICE OF THE  
COUNTY ATTORNEY.

Signed: \_\_\_\_\_

Typed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## OPEN SOLICITATION

## TRANSIT SERVICES FARE MEDIA SALES PROGRAMS

## I. SCOPE OF SERVICES

## A. Background/Intent

The County requires additional sales outlets for Ride On 20 Trip Ticket, Twoweek RideAbout Passes, County Cruiser Passes and Token Rolls under the following programs:

FARE MEDIA SALES PROGRAM RIDE ON 20TRIP TICKETS

FARE MEDIA SALES PROGRAM RIDE ON TWOWEEK RIDEABOUT PASS

FARE MEDIA SALES PROGRAM RIDE ON MONTHLY COUNTY CRUISER PASS

FARE MEDIA SALES PROGRAM RIDE ON TOKEN ROLLS

Interested parties may apply to provide one or more of the services shown above. These services are needed for the sale of Ride On fare media to the general public and to employees of businesses located in the Ride On transit system area to provide easy access to fare media. The County provides the contractor with an agreed upon amount of Ride On fare media on a monthly basis and reimburses the contractor for the cost of handling and selling these tickets. The Ride On fare media is sold to the contractor at established prices and when sold by the contractor the County pays a commission to the contractor for each ticket or pass sold.

The County cannot guarantee a minimum number of tickets, passes, or tokens sold. However, interested parties may apply for any or all of these programs.

B. Work Statement/Specifications.

## 1. Contractor agrees to sell Ride On fare media on consignment under the following conditions.

a. The consignment level will be mutually agreed to by the Contractor and the County based on the face value of the fare media to be sold. The value will be established by multiplying the number of tickets/passes/rolls by the face value of each ticket/pass/rolls

b. The CONTRACTOR agrees to use the authorized order forms to request additional Ride On tickets/passes/rolls (Attachment B).

c. The County Department of Transportation, Division of Transit Services (or its designee) will fill order requests and arrange delivery of ticket/pass/roll orders

d. Upon placing any order/reorder, Contractor will send/fax to the Division of Transit Services (or designee) a completed County order form. Orders may be phoned in but upon delivery of the order a completed County order form must be provided.

e. The Division of Transit Services will deliver the Contractor Ride On tickets/passes/rolls amounting to the Contractor's order. Upon delivery, the contractor will provide a completed authorized order form and a check made payable to Montgomery County in the amount of the previously sold fare media less the 4% commission.

f. All Ride On tickets/passes/rolls ordered will be sent to the Contractor's address directed to the person responsible for the sale and safe keeping of the tickets/passes/rolls.

g. Each order's contents, tickets/passes/rolls, will be recorded by the County, listing the type and number of tickets/passes/rolls in each order processed.

h. Contractor agrees to secure and be accountable for all Ride On fare media in its possession as if they are cash. Contractor will reimburse the County for any tickets/passes/rolls lost or stolen or otherwise unaccounted for under Contractor's consignment.

i. The Division of Transit Services will provide point of purchase posters to assist the Contractor to inform its customers that the Contractor sells Ride On fare media.

j. The Division of Transit Services will issue press releases announcing the availability of tickets/passes/rolls at the Contractor's place of business. The Contractor will be listed in the Transit Fare Media Sales Outlets brochure, and other appropriate transit informational material. The Division reserves the right to review and approve supplemental advertising materials Contractor develops or uses to promote the sale of Ride On fare media.

k. Each Ride On ticket/pass/roll sells for the face value set by the County. Contractor agrees to sell the fare media to the general public and/or employees at no more than this face value. The County will inform the Contractor in writing of any subsequent fare change that may affect this selling price.

## 2. Definitions:

a. Fare Media shall refer in this contract to tickets, farecards, tokens or other media used to facilitate payment by the passenger for the use of transportation services operated by the County.

b. Timesensitive fare media shall refer in this contract to fare media for which an expiration date exists beyond which the fare media cannot be used.

## C Ride On Fare Media Descriptions

1. **20Trip Tickets** The tickets sell for \$18 and offer the rider a \$4 savings, assuming all 20 trips are taken during peak hours. The ticket is valid until all 20 trips are taken and there is no time limit on its use. Tickets will be consigned in books of 10. Contractor will reorder as needed. When orders are delivered, Contractor will have a check payable to Montgomery County, Maryland in the amount of the previous fare media sold less the 4% commission.



2. Two-Week Ride-About Passes - - The passes currently sell for \$18. And are valid for unlimited trips on Ride On for a specific two-week period beginning on a Sunday and ending on a Saturday. The more trips a rider takes the more money saved. It's also transferable, so anyone can use it. Passes will be delivered to the Contractor monthly two periods at a time. Payment by check made out to Montgomery County, Maryland will be mailed to the County or its designee to be received by the 15<sup>th</sup> of the following month. Contractor will deduct 4% commission for passes sold.

The Contractor is responsible for the maximum number of passes received per period and must pay for or return unused passes equaling the amount of the consignment. Contractor will return all unsold Two-Week Ride-About passes to the delivery person when the next month's passes are delivered.

- 3 Token Rolls - Tokens are worth \$1.10 each and are accepted for one ride in Maryland on Ride On or Metrobus. Tokens will be provided to contractor in rolls of 20 tokens. Rolls are not to be broken by the contractor and sold individually. Contractor will have a check made out to Montgomery County, Maryland in the amount of previous fare media sold less the 4% commission.
- 4 Monthly County Cruiser Passes - The passes cost \$20 and may only be used by riders 18 years old and younger. The Cruiser passes are valid for Ride On buses only. **PROOF OF AGE IS REQUIRED FOR PURCHASE.** Contractors participating in this program must keep detailed records showing name and address of purchaser, and proof of age submitted. The Division of Transit Services, or its designee, will provide participating contractors with the necessary form to be completed and returned to the County on a monthly basis. Passes will be delivered to the Contractor monthly. Payment will be mailed to the County to be received by the 15<sup>th</sup> of the following month. Contractor will deduct 4% commission for the passes sold.

## II Performance Standards.

- A Performance Standards - The CONTRACTOR shall meet the following performance standards Under normal operating conditions.
  1. The maximum value of the consignment shall not be exceeded by the Contractor.
  2. All requests for reorder must be filled using the approved County form. Contractor must pay for those tickets/passes/rolls sold at the time or order delivery (unless otherwise stated in 1.C (1) - (4).
  3. The Contractor is responsible for the maximum number of tickets/passes/rolls received per period and must pay for or return unused tickets/passes/rolls equaling the amount of consignment.
- B Failure to meet the above performance standards will result in suspension of the contract with ten days to correct such failure to the satisfaction of the contract administrator. Failure to correct deficiencies after notification in writing to perform remedial action within the allotted time will result in the suspended contract being terminated.

### III Performance Period Schedule.

The Contract term is effective as of the date of signature by the Director, Office of Procurement first shown above, subject to the availability of funds as appropriated by the County Council.

### IV. Compensation.

The compensation by the County to CONTRACTOR for the following services will not exceed, and is subject to the available appropriated funds for the services required herein.

#### FARE MEDIA SALES PROGRAM RIDE ON 20TRIP TICKETS

4% commission on each ticket sold

#### FARE MEDIA SALES PROGRAM RIDE ON TWOWEEK RIDEABOUT PASS

4% commission on each pass sold

#### FARE MEDIA SALES PROGRAM RIDE ON COUNTY CRUISER PASS

4% commission on each pass sold

#### FARE MEDIA SALES PROGRAM RIDE ON TOKEN ROLLS

4% commission on each roll sold

### VI. Administrative Requirements

#### A. General Conditions

The General Conditions of Contract Between County and Contractor (“General” Conditions”) (Attachment “A”) will apply to any contract that results from this solicitation, and are attached hereto and incorporated by reference herein and made a part hereof.

#### B. Contract Administration

1. The Division of Transit Services will be responsible for administration of the contracts that result from this solicitation. The contract administrator for this contract is: Maureen O’Hara, Fare Media Contract Sales Contract Administrator, 110 N. Washington Street, Suite 200, Rockville, Maryland, 20850, phone number (240) 777-6448.

2. The Director, Office of Procurement, is the only County Official authorized to amend or modify the terms and conditions of any contract awarded as a result of this solicitation

#### C. Other Requirements

1. The applicant is required to provide the insurance coverage as shown in Attachment “C”, which supersedes Section 15A of the General Conditions, prior to execution of any contract awarded as a result of this solicitation.

2. The CONTRACTOR agrees to maintain adequate records of its operation for a minimum of five (5) years from the date of this contract, and make them available, upon request, to the COUNTY.

3. The CONTRACTOR agrees to provide service without regard to race, creed, color, sex, age, national origin, marital status, or physical or mental handicap.

ATTACHMENT "B"

RIDE ON FARE MEDIA DISTRIBUTION AND SALES RECONCILIATION

Montgomery County Department of Transportation  
Division of Transit Services  
110 North Washington Street, Suite 200  
Rockville, Maryland 20850

\_\_\_\_\_  
Name of Consignee\_\_\_\_\_  
Signature of Consignee\_\_\_\_\_  
Address\_\_\_\_\_  
Date

	CONSIGNMENT			SALES	VALUE SOLD	INVENTORY
	<u>Quantity Issued</u>	<u>Unit Cost</u>	<u>Total Cost</u>	<u>Quantity Sold</u>		<u>Current Inventory</u>
20 Trip Tickets	<u>  10  </u>	\$18	\$180	<u>  10  </u>	\$180	<u>  0  </u>
Two Week Ride/ About Passes	<u>          </u>	\$18	\$	<u>          </u>	\$	<u>          </u>
Token Rolls (20 per roll)	<u>  10  </u>	\$22	\$220	<u>  5  </u>	\$110	<u>  5  </u>
 SUBTOTAL			\$400		\$	

TOTAL COST FOR ALL FARE MEDIA SOLD	<u>\$290.00</u>
Less 4% Commission	<u>\$ 11.60</u>
TOTAL AMOUNT DUE MONTGOMERY COUNTY	<u>\$278.40</u>

Make Check Payable to MONTGOMERY COUNTY, MARYLAND

\_\_\_\_\_  
Division of Transit Services Use Only

Received \$ \_\_\_\_\_ Date \_\_\_\_\_ Initials \_\_\_\_\_

## Notes